

Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Initially, on September 25, 2009, Applicants' attorney attempted to discuss this application with Examiner Shiao by telephone, specifically with regard to the Request to Withdraw Finality of Rejection filed July 13, 2009, for which Applicants' attorney has not received any reply. The Examiner's answering machine indicated that the Examiner is out of the office until September 29, 2009. Accordingly, Applicants' attorney left a voicemail message for Mr. McKane asking for a reply to the Request to Withdraw Finality of Rejection. As of today (September 29, 2009) Applicants' attorney has not heard back from Mr. KcKane.

Applicants maintain their position that the finality of the current Office Action is improper, for the reasons set forth in the Request filed July 13, 2009. The Examiner is again kindly requested to withdraw the finality of the rejection.

Claim 1 has been amended to delete aryl-C₀-C₄-alkyl from both the definitions of R¹ and R². A similar amendment has been made in claims 3 and 7.

Claim 1 has also been amended to delete the language at the end of this claim concerning *in vivo* application and isotopes. The same change has been made in claim 7. These amendments render the rejection of claims 1-7 and 9-12 under the second paragraph of 35 U.S.C. §112 moot.

Applicants respectfully submit that these amendments should be entered even though they are being presented after a final rejection. The final rejection was improper, for the reasons set forth in the Request to Withdraw Finality of Rejection filed July 13, 2009. Accordingly, Applicants are entitled to amend the claims in the same manner that is available after a non-final Office Action.

In item 3 on page 2 of the Office Action, the Examiner defines the scope of the invention of the elected subject matter "as follows." However, the description of the elected subject matter, in the last full paragraph on page 2 of the Office Action, is inaccurate. The Examiner's description of the elected compounds/compositions is for the Group I and II subject matter as set forth in the Office Action of July 29, 2008. However, in responding to that Office Action, Applicants elected the Group III subject matter (with

traverse). In view of this, and Applicants' traverse of the restriction requirement, referring to item 8 on page 5 of the current Office Action, Applicants have not amended the claims as suggested by the Examiner. Further attention in this regard is also directed to the Request for New Office Action filed April 8, 2009. In addition, the Examiner has not clarified why the previous restriction requirement is supported by the TenBrink et al. reference (US '360), or how the Examiner arrives at the instant group of three inventions as defined by the Examiner for the first time in the Office Action of July 29, 2008 in view of the indole compound under CAS 108:204491, a compound which has nothing to do with the instant invention, while for the compounds as disclosed by TenBrink et al. it is not apparent how to arrive at the instant groups of three inventions.

The patentability of the presently claimed invention over the disclosure of the reference relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

Thus, the rejection of claims 1-7 and 9-12 under 35 U.S.C. §103(a) based on the TenBrink et al. reference (US '360) is respectfully traversed.

Considering the claim amendments as set forth above, Applicants take the position that TenBrink et al. fail to suggest, referring to formula (I) in this reference, a compound in which E-W-K represents alkylene, R^c is not arylalkyl (being excluded by the above amendment for instant radicals R¹ and R²) and in which A is a heterocycl. There is no disclosure in the reference which would have motivated one of ordinary skill in the art to modify these variables in the reference in a manner which would result in a compound according to the presently claimed invention.

Furthermore, the TenBrink et al. reference is **directed to inhibitors of beta-secretase**, useful for the treatment of diseases associated with cognitive symptoms, especially for the treatment of Alzheimer's disease (see "Background of Invention" in columns 1 and 2 of US '360). In contrast, the instant invention is **directed to inhibitors of renin**, useful for the treatment of diseases associated with hypertension (see last paragraph of page 14 of the instant specification). Consequently, there is no teaching, suggestion or motivation to expect that the instant compounds can be used as renin inhibitors, and thus arrive at the instant invention, particularly with regard to claim 12 of the present application.

For these reasons, Applicants take the position that the presently claimed invention is clearly patentable over the reference applied by the Examiner in rejecting the claims.

Referring to item 6 on page 4 of the Office Action, the Examiner is again kindly requested to hold the provisional obviousness-type double patenting rejection in abeyance, pending an indication that the claims of the present application are otherwise in condition for allowance.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of objection and rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Peter HEROLD et al.

By 
Michael R. Davis
Registration No. 25,134
Attorney for Applicants

MRD/pth
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
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